IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE NINETH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO : 22712 of 2004

Between:

D. Gurumuthy S/o Chinna Narayana
Bachupalli (V), Gooty (M), Anantapur District

..... PETITIONER

AND

1 The Joint Collector, Anantapur, Anantapur District
2 The Revenue Divisional Officer, Anantapur, Anantapur District
3 The Mandal Revenue Officer, Gooty, Anantapur District

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ order or direction more particularly one in the nature of Writ of Mandamus declaring the action of 1st respondent in not disposing of stay petition in appeal which is filed before him against the orders of the 2nd respondent passed in Rc. NO. D1/Cs/1544/2004 dt 11-11-2004 and the action of the 2nd respondent in not furnishing the MRO report dt 18-10-2004 as illegal, arbitrary and consequently direct the respondents to continue me as FP Shop dealer of Bachupalli Village, Gooty (M) of Anantapur District. Pending Disposal of enquiry before the 2nd respondent.

Counsel for the Petitioner:MR.N.CHANDRA SEKHAR REDDY

Counsel for the Respondents 1 to 3: GP FOR CIVIL SUPPLIES

The Court at the stage of admission made the following ORDER:

Petitioner is a fair price shop dealer of Bachupalli village of Anantapur district. He was issued a show cause notice dated 23.10.2004, where under, several charges were levelled against him. He was required to explain as to why the dealership shall not be cancelled. On receipt of the same, the petitioner made a representation through an advocate on 06.11.2004, to furnish copies of the report, said to have been submitted by the Mandal Revenue Officer, Gooty. The copies of the report, in turn, were furnished on 09.11.2004. The second respondent passed an order dated 11.11.2004 suspending the authorization of the petitioner.

Learned counsel for the petitioner submits that the very purpose of requesting the second respondent to furnish the copies of the report of the Mandal Revenue Officer was to file an effective explanation on charges and that there was no justification for the second respondent in passing the order of suspension within two days i.e. on 11.11.2004. He submits that the order is in violation of principles of natural justice.

Heard learned counsel for the petitioner and learned Government Pleader for Civil Supplies.

A perusal of the proceedings dated 11.11.2004 discloses that at the request of the learned counsel for the petitioner, the report of the Mandal Revenue Officer and other documents were furnished to the petitioner on 09.11.2004. Within two days thereafter, the suspension of dealership was ordered. Obviously, with a

view to comply with the provisions of Clause 5(4) of the A..P. Public Distribution System Control Order, 2001, the second respondent has chosen to issue show cause notice. The very purpose of issuance of show cause notice is to know the version of the aggrieved party. The second respondent was fair enough in acceding to the request of the petitioner to furnish the copies of the report. However, all the fairness exhibited by him stood neutralized with the passing of an order within two days, without awaiting the submission of the explanation.

Hence, this Court is of the view that the impugned order cannot be sustained. The same is accordingly set aside. The petitioner had already submitted his explanation. It shall be open to the second respondent to pass appropriate orders, after considering the explanation of the petitioner. In that view of the matter, the appeal said to be pending with the first respondent becomes infructuous and it shall not be necessary for him to pass any orders therein.

The writ petition is accordingly allowed. No order as to costs.

09.12.2004

ksld

To

1 The Joint Collector, Anantapur, Anantapur District
2 The Revenue Divisional Officer, Anantapur, Anantapur District
3 The Mandal Revenue Officer, Gooty, Anantapur District

4 Two CCs. to the G.P. for Civil Supplies, High Court of A.P.,

Hyderabad (OUT)

5 Two CD copies.